

§ 922.104

of understanding shall be executed between NOAA and the ASG or the person(s) or entity authorized to act on their behalf.

§ 922.104 Permit procedures and criteria.

(a) Any person in possession of a valid permit issued by the Director, in consultation with the EDPO, in accordance with this section and § 922.48, may conduct an activity otherwise prohibited by § 922.102 in the Sanctuary if such activity is judged not to cause long-term or irreparable harm to the resources of the Sanctuary, and is:

(1) Related to research involving Sanctuary resources designed to enhance understanding of the Sanctuary environment or to improve resource management decisionmaking;

(2) Intended to further the educational value of the Sanctuary and thereby enhance understanding of the Sanctuary environment or improve resource management decisionmaking; or

(3) For salvage or recovery operations.

(b) Permit applications shall be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Sanctuary Coordinator, Fagatele Bay National Marine Sanctuary, P.O. Box 4318, Pago Pago, AS 96799.

(c) In considering whether to grant a permit, the Director shall evaluate such matters as:

(1) The general professional and financial responsibility of the applicant;

(2) The appropriateness of the methods being proposed for the purpose(s) of the activity;

(3) The extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, education, or scientific information; and

(4) The end value of the activity.

(d) In addition to meeting the criteria in this section and § 922.48, the applicant also must demonstrate to the Director that:

(1) The activity shall be conducted with adequate safeguards for the environment; and

(2) The environment shall be returned to, or will regenerate to, the

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condition which existed before the activity occurred.

(e) The Director may, at his or her discretion, grant a permit which has been applied for pursuant to this section, in whole or in part, and subject the permit to such condition(s) as he or she deems necessary. A permit granted for research related to the Sanctuary may include, but is not limited to, the following conditions:

(1) The Director may observe any activity permitted by this section;

(2) any information obtained in the research site shall be made available to the public; and

(3) The submission of one or more reports of the status of such research activity may be required.

Subpart K—Cordell Bank National Marine Sanctuary

§ 922.110 Boundary

The Cordell Bank National Marine Sanctuary (Sanctuary) consists of a 397.05 square nautical mile (NM) area of marine waters approximately 50 miles west-northwest of San Francisco, California extending at 180° from the northernmost boundary of the Gulf of the Farallones National Marine Sanctuary (GFNMS) to the 1,000 fathom isobath northwest of the Bank, then south along this isobath to the GFNMS boundary and back to the northwest along this boundary to the beginning point. The boundary coordinates are listed in appendix A to this subpart.

§ 922.111 Prohibited or otherwise regulated activities.

(a) Except as necessary for national defense or to respond to an emergency threatening life, property or the environment, or except as permitted in accordance with §§ 922.48 and 922.112 or certified in accordance with § 922.47, the following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted:

(1)(i) Depositing or discharging, from any location within the boundary of the Sanctuary, material or other matter of any kind except:

(A) Fish, fish parts, chumming materials (bait) produced and discarded during routine fishing activities conducted in the Sanctuary; and

(B) Water (including cooling water) and other biodegradable effluents incidental to use of a vessel in the Sanctuary and generated by: Marine sanitation devices approved by the United States Coast Guard; routine vessel maintenance, e.g., deck wash down; engine exhaust; or meals on board vessels.

(ii) Depositing or discharging, from any location beyond the boundaries of the Sanctuary, material or other matter of any kind, except for the exclusions listed in paragraph (a)(1)(i) of this section, which enter the Sanctuary and injure a Sanctuary resource.

(2) Removing, taking, or injuring or attempting to remove, take, or injure benthic invertebrates or algae located on Cordell Bank or within the 50 fathom isobath surrounding the Bank. There is a rebuttable presumption that any such resource found in the possession of a person within the Sanctuary was taken or removed by that person. This prohibition does not apply to accidental removal, injury, or takings during normal fishing operations.

(3) Exploring for, or developing or producing, oil, gas, or minerals in any area of the Sanctuary.

(b) All activities being carried out by the Department of Defense (DOD) within the Sanctuary on the effective date of designation that are necessary for national defense are exempt from the prohibitions contained in the regulations in this subpart. Additional DOD activities initiated after the effective date of designation that are necessary for national defense will be exempted by the Director after consultation between the Department of Commerce and DOD. DOD activities not necessary for national defense, such as routine exercises and vessel operations, are subject to all prohibitions contained in the regulations in this subpart.

(c) Where necessary to prevent immediate, serious, and irreversible damage to a Sanctuary resource, any activity may be regulated within the limits of the Act on an emergency basis for no more than 120 days.

§922.112 Permit procedures and criteria.

(a) If a person wishes to conduct an activity prohibited under §922.111, that

person must apply for, receive, and have in possession on board any vessel used a valid permit issued pursuant to this section and §922.48 authorizing that person to conduct that activity.

(b) Permit applications shall be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Manager, Cordell Bank National Marine Sanctuary, Fort Mason, Building #201, San Francisco, CA 94123.

(c) The Director, at his or her discretion, may issue a permit subject to such terms and conditions as deemed appropriate, to conduct an activity otherwise prohibited by §922.111, if the Director finds that the activity will further research related to Sanctuary resources; further the educational or historical value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; or assist in the management of the Sanctuary. In deciding whether to issue a permit, the Director may consider such factors as the professional qualifications and financial ability of the applicant as related to the proposed activity; the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity; the extent to which the conduct of the activity may diminish or enhance the values for which the Sanctuary was designated; and the end value of the applicant's overall activity.

APPENDIX A TO SUBPART K OF PART 922—CORDELL BANK NATIONAL MARINE SANCTUARY BOUNDARY COORDINATES

Point No.	Latitude	Longitude
1	38°15'51.72"	123°10'52.44"
2	38°07'55.88"	123°38'33.53"
3	38°06'45.21"	123°38'00.40"
4	38°04'58.41"	123°37'14.34"
5	38°04'28.22"	123°37'17.83"
6	38°03'42.75"	123°36'55.66"
7	38°03'11.10"	123°36'19.78"
8	38°02'46.12"	123°36'21.98"
9	38°02'02.74"	123°35'56.56"
10	38°01'27.10"	123°35'55.12"
11	38°01'22.28"	123°36'55.13"
12	38°01'11.54"	123°37'28.21"
13	38°00'49.16"	123°37'29.77"
14	37°59'54.49"	123°36'47.90"
15	37°59'12.39"	123°35'59.55"
16	37°58'39.40"	123°35'14.85"
17	37°58'00.57"	123°34'42.93"
18	37°57'18.99"	123°33'43.15"